

Message Text

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ACTION AF-18

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TO SECSTATE WASHDC 7492

INFO AMEMBASSY BRUSSELS

C O N F I D E N T I A L KHARTOUM 2724

E,(9. 11652: GDS

TAGS: PINS SU

SUBJ: KHARTOUM ASSASSINATIONS - BACKGROUND ON INQUIRY POST-
PONEMENT

REF: KHARTOUM 2722

1. SUMMARY. DEFENSE APPEAL MAGISTRATE'S DEC 11 RULINGS
APPARENTLY LAST MINUTE DECISION BY PALESTINIANS. APPEAL
PROCEDURE COULD INVOLVE SEVERAL STAGES BUT SHOULD NOT
BE LENGTHY SINCE APPEAL RULINGS WILL BE BASED ON WRITTEN
SUBMISSIONS. END SUMMARY.

2. ON BASIS HIS PRESENCE IN MAGISTRATE'S CHAMBERS JUST PRIOR
DEC 13 SESSION, EMBASSY LAWYER TELLS US DEFENSE ATTORNEY
MALASI (PARA 3 REFTTEL) HAD SUDDENLY INFORMED MAGISTRATE
DEFENSE WOULD APPEAL BOTH OF MAGISTRATE'S RULINGS. OTHER
TWO DEFENSE LAWYERS PRESENT EXPRESSED SURPRISE, STATING
THIS HAD NOT BEEN AGREED UPON, BUT MALASI SAID THIS WHAT
ACCUSED DESIRED. APPEAL SUBSEQUENTLY READ IN COURT BY
RIDZIK WAS WRITTEN BY PLO (AND WE THINK FATAH) REPRESENTATIVE
ABU KHEIR. 30-40 PALESTINIAN STUDENTS PRESENT
IN PUBLIC GALLERY AND CHANTED SLOGANS OUTSIDE IN WHAT
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OUR LAWYER ASSESSED AS PREARRANGED MANIFESTATION.

HE ADDED IT LOCALLY ASSUMED MALASI IN IRAQI PAY.

3. MAGISTRATE COMMENTED PRIVATELY TO OUR LAWYER HE DISPLEASED BY DEFENSE TACTICS BUT COULD DO LITTLE SINCE ACCUSED REQUIRED CAREFUL HANDLING. HE INDICATED HAD NO WISH TAKE ACTION WHICH MIGHT BRING ACCUSED PUBLICITY OR SYMPATHY.

4. AS TO APPEAL PROCEDURE, LAWYER TELLS US IT WOULD BE POSSIBLE FOR ACCUSED APPEAL BEYOND PROVINCIAL JUDGE TO COURT OF APPEAL AND FROM LATTER TO HIGH COURT (ON POINTS OF LAW ONLY). HOWEVER, ENTIRE PROCEDURE COULD BE ACCOMPLISHED IN 21 DAYS SINCE SUCH APPELLATE RULINGS ARE BY ONE JUDGE BASED ON WRITTEN SUBMISSIONS. MOREOVER, PROSECUTOR COULD PETITION MAGISTRATE CONTINUE INQUIRY IF IT APPEARED DEFENSE TAKING ADVANTAGE MAGISTRATE'S "INDEFINITE" POSTPONEMENT RULING BY BEING DILATORY IN FOLLOWING APPEAL PROCEDURE. PROSECUTOR WAS COURAGEOUS INDIVIDUAL WHO WOULD NOT SHRINK FROM SUCH ACTION DESPITE OBVIOUS PALESTINIAN PRESSURES. LAWYER CONFIRMED THAT THE MORE POINTS THUS DISPOSED OF IN PRE-TRIAL APPEALS, THE LESS RECOURSE CAN BE MADE BY ACCUSED

TO SAME POINTS IN TRIAL PROCESS ITSELF. HE COMMENTED ACCUSED SEEMED BE SEEKING BUY TIME BY ANY MEANS IN HOPE SOME AREA DEVELOPMENT WHICH WOULD INCREASE PRESSURE ON GOS FREE THEM.

5. RE EARLIER REFERENCE "DIPLOMATIC IMMUNITY" FATAH MEMBERS (PARA 3 KHARTOUM 2615), OUR LAWYER STATES PROSECUTOR TOLD HIM HE HAD NOT MEANT IMPLY BY THIS REMARK THAT SUCH IMMUNITY LIKELY BUT SIMPLY HAD WISHED NOTE FATAH OFFICE ITSELF HAD DIPLOMATIC IMMUNITY.

6. COMMENT: TAKING BOTH INQUIRY AND TRIAL STAGES TOGETHER, IT APPEARS FROM FOREGOING THAT PRESENT APPEAL (WHICH WE SPECULATE MAY WELL BE APPEALED FURTHER) UNLIKELY REPRESENT SIGNIFICANT DELAY OVERALL TIMETABLE. BREWER

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